

7-57. Section 309 Review Process (1200 TN 350 7-57)

1. AUTHORITY. To review and comment in writing on the environmental impact, in accordance with the Clean Air Act (CAA) Section 309(a), of Region-specific newly authorized federal projects for construction and any Region-specific major federal actions (other than a project for construction) to which the National Environmental Policy Act (NEPA) applies, including, but not limited to, Region-specific Environmental Impact Statements (EISs). This includes the authority to:

- a. Review, comment and make recommendations on Region-specific Findings of No Significant Impact (FONSI), except for comments in writing that the underlying action may be unsatisfactory from the standpoint of public health or welfare or environmental quality;
- b. Review, comment and make recommendations on Region-specific Environmental Assessments (EAs), except for comments in writing that the underlying action may be unsatisfactory from the standpoint of public health or welfare or environmental quality;
- c. Review, comment and make recommendations on draft and final Region-specific Environmental Impact Statements (EISs), except for comments in writing that the underlying action may be unsatisfactory from the standpoint of public health or welfare or environmental quality.
- d. Review, comment and make recommendations on draft and final supplemental Region-specific EISs, except for comments in writing that the underlying action may be unsatisfactory from the standpoint of public health or welfare or environmental quality.
- e. Recommend to the Regional Administrator that a Region-specific major federal action to which NEPA applies be referred to the Council on Environmental Quality and a determination published by the Administrator because the action may be unsatisfactory from the standpoint of public health or welfare or environmental quality or because a draft or final EIS is inadequate.

2. TO WHOM DELEGATED.

- a. These authorities in 1.a. through 1.e. are delegated to the Director, Office of Communities, Tribes and Environmental Assessment, Office of the Regional Administrator (ORD).
- b. The authorities in 1.a. are delegated to NEPA program staff.
- c. The authorities in 1.b., 1.c., and 1.d. are delegated to the NEPA Program manager or equivalent.

7-57. Section 309 Review Process (continued)**3. LIMITATIONS.**

- a. Before exercising the authorities in 1.a, 1.b., 1.c. 1.d., or 1.e. with respect to EISs, EAs and other NEPA documents that are prepared by the U.S. Army Corps of Engineers in connection with the processing of a permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. § 1344), the concurrence of the Director, Water Division must be obtained.
- b. The final referral of an action to the Council on Environmental Quality for resolution is reserved for the Administrator.
- c. Authority to act on multi-regional EISs and regulations proposed by other Federal agencies is reserved to the Associate Administrator, Office of Policy.

4. REDELEGATION AUTHORITY.

- a. This authority may not be redelegated without formal amendment.
- b. An official who redelegates authority does not divest herself or himself of the power to exercise that authority, and an official who redelegates authority may revoke such redelegation at any time.

5. ADDITIONAL REFERENCES.

- a. U.S. Environmental Protection Agency, Policy and Procedures for the Review of Federal Actions Impacting the Environment.

6. SUPERSESSION. Delegations Manual, CAA, Regional Delegation 7-57, Section 309 Review Process, 1200 TN RIII 120 (March 27, 1998).

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Cosmo Servidio
Regional Administrator